

KOREN WILLIAMS (“Plaintiff”), by and through his attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against CAPITAL ONE (“Defendant”):

1. Plaintiff's Complaint is based on the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227 *et seq.*

2. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331. See Mims v. Arrow Fin. Services, LLC, 132 S. Ct. 740, 747, 181 L. Ed. 2d 881 (2012).

3. Defendant conducts business in the State of Michigan and as such, personal jurisdiction is established.

PARTIES

5. Plaintiff is a natural person residing in Westland, Michigan 48185.

6. Plaintiff is a “person” as that term is defined by 47 U.S.C. § 153(39).

1 7. Defendant is a corporation that has its corporate headquarters located at 1680
2 Capital One Drive, McLean, VA 22101.

3 8. Defendant is a “person” as that term is defined by 47 U.S.C. §153(39).

4 9. Defendant acted through its agents, employees, officers, members, directors,
5 heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

6 **FACTUAL ALLEGATIONS**

7 10. Plaintiff has a cellular telephone number that he has had for at least one year.

8 11. Plaintiff has only used this phone as a cellular telephone.

9 12. Beginning in or around spring 2015 and continuing through in or around
10 February 2017, Defendant placed repeated calls to Plaintiff’s cellular telephone attempting to
11 contact a third party named Janay.

12 13. During this time, Defendant contacted Plaintiff using an automatic telephone
13 dialing system and automatic and/or pre-recorded messages.

14 14. Plaintiff knew Defendant was using an automatic telephone dialing system and
15 automatic and/or pre-recorded messages as Defendant’s calls began with a detectible delay or
16 pause prior to being connected to a representative.

17 15. Defendant’s telephone calls were not made for “emergency purposes.”

18 16. Plaintiff never consented to Defendant placing calls to his cellular telephone using
19 an automatic telephone dialing system and automatic and/or pre-recorded message.
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21 17. Desiring to stop these repeated calls, Plaintiff spoke to Defendant shortly after
22 calls began in or around spring 2015 and told Defendant they were calling a wrong number and
23 to take his number off their list.
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1 18. Once Defendant was aware that its calls were unwanted and to stop, there was no
2 lawful purpose to making further calls, nor was there any good faith reason to place calls.

3 19. However, Defendant instead continued to call him despite his instruction to stop
4 calling and to remove his phone number from their list.

5 20. Defendant's incessant calls were frustrating and irritating to Plaintiff, so he
6 downloaded a blocking application as a means to stop Defendant's unwanted calls.

7 21. Upon information and belief, Defendant conducts business in a manner which
8 violates the Telephone Consumer Protection Act.

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10 **COUNT I**
11 **DEFENDANT VIOLATED THE**
12 **TELEPHONE CONSUMER PROTECTION ACT**

13 22. Plaintiff incorporates the forgoing paragraphs as though the same were set forth at
14 length herein.

15 23. Defendant initiated automated calls to Plaintiff using an automatic telephone
16 dialing system and automatic and/or pre-recorded messages.

17 24. Defendant's calls to Plaintiff were not made for emergency purposes.

18 25. Defendant's calls to Plaintiff, in and after spring 2015, were not made with
19 Plaintiff's prior express consent.

20 26. Defendant's acts as described above were done with malicious, intentional,
21 willful, reckless, wanton and negligent disregard for Plaintiff's rights under the law and with the
22 purpose of harassing Plaintiff.
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1 27. The acts and/or omissions of Defendant were done unfairly, unlawfully,
2 intentionally, deceptively and fraudulently and absent bona fide error, lawful right, legal defense,
3 legal justification or legal excuse.

4 28. As a result of the above violations of the TCPA, Plaintiff has suffered the losses
5 and damages as set forth above entitling Plaintiff to an award of statutory, actual and trebles
6 damages.

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8 **PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiff, KOREN WILLIAMS, respectfully prays for a judgment as
10 follows:

- 11 a. All actual damages suffered pursuant to 47 U.S.C. § 227(b)(3)(A);
12 b. Statutory damages of \$500.00 per violative telephone call pursuant to 47
13 U.S.C. § 227(b)(3)(B);
14 c. Treble damages of \$1,500.00 per violative telephone call pursuant to 47
15 U.S.C. §227(b)(3);
16 d. Injunctive relief pursuant to 47 U.S.C. § 227(b)(3);
17 e. Any other relief deemed appropriate by this Honorable Court.
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20 **DEMAND FOR JURY TRIAL**

21 PLEASE TAKE NOTICE that Plaintiff, KOREN WILLIAMS, demands a jury trial in
22 this case.
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1 RESPECTFULLY SUBMITTED,

2 KIMMEL & SILVERMAN, P.C.

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4 DATED: June 9, 2017

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